

Before the
Federal Communications Commission
Washington, D.C. 20554

MM Docket No. 90-571

In the Matter of

Telecommunications Relay
Services, and the Americans with
Disabilities Act of 1990

THIRD REPORT AND ORDER

Adopted: July 15, 1993;

Released: July 20, 1993

By the Commission: Commissioner Barrett issuing a statement.

I. INTRODUCTION

1. By this action, the Commission amends its rules to provide that interstate telecommunications relay services (TRS) costs shall be recovered utilizing a shared-funding mechanism pursuant to the funding plan set forth in Appendix B, and outlined below.

II. BACKGROUND

2. In order to fulfill the mandate of the Americans with Disabilities Act of 1990 (ADA) that the Commission ensure that interstate and intrastate telecommunications relay services¹ are available, to the extent possible and in the most efficient manner to individuals in the United States with hearing and speech disabilities by July 26, 1993, this Commission, on November 8, 1990, initiated a rulemaking proceeding.² After consideration of the extensive public comments on our TRS proposals and the specific requirements of Title IV of the ADA³ we adopted a Report and Order (*TRS Order*).⁴ In the *TRS Order*, we fashioned a comprehensive set of rules which set forth terminology and definitions of TRS, prescribed operational, technical, and functional minimum standards required of all TRS provid-

ers, and delineated the state certification process. Additionally, the *TRS Order* requested further comment on interstate TRS cost recovery.

3. On February 19, 1993, in an Order on Reconsideration, Second Report and Order, and Further Notice of Proposed Rulemaking (*TRS II*),⁵ the Commission resolved five petitions for reconsideration, adopted a shared-funding mechanism for interstate TRS cost recovery, and proposed a specific plan establishing a TRS interstate cost recovery fund (TRS Fund).⁶ In response to its request for comments on the TRS Fund, the Commission received twenty-three comments and seventeen reply comments.⁷ In this order the Commission imposes annual and other reporting requirements on TRS providers and TRS Fund contributors to implement shared-funding.

III. DISCUSSION

A. The TRS Fund Administrator

4. *Comments.* In *TRS II*, the Commission proposed that, effective July 26, 1993, the interstate cost recovery TRS Fund be administered by the National Exchange Carrier Association, Inc. (NECA).⁸ Further, the Commission proposed that NECA's performance and the TRS Fund would be reviewed by the Commission after two years to determine whether any changes are necessary.⁹ In their comments, Ameritech, AT&T, BellSouth, NARUC, NCLD, NYNEX, Robinson, Sprint, SWB, USTA, and GTE support the Commission's proposal to appoint NECA as administrator of the TRS Fund because they assert that NECA has demonstrated experience with administering pooling mechanisms, and this experience will keep administrative costs low. Most of the commenters supporting this proposal further propose that NECA keep the TRS Fund separate from its other functions. Specifically, USTA proposes that the TRS fund be established as an escrow account and not commingled with other funds.¹⁰ Further, NARUC, NCLD, and Robinson, in their comments, propose that an advisory committee, comprised of representatives from the interstate service industry, TRS providers, individuals with hearing and speech disabilities, state programs, the fund administrator, and the Commission, be established to monitor interstate TRS compliance and address telecommunications issues related to TRS.

5. In their comments, MCI, ACTA, GCI, and Allnet strongly oppose the selection of NECA as administrator of the TRS Fund because they contend that NECA is associated with one specific industry group (local exchange carriers), and that NECA has demonstrated an inability to

¹ Telecommunications relay service (TRS) allows people with hearing and/or speech disabilities to use the telephone. TRS facilities are equipped with specialized equipment and staffed by communications assistants (CAs) who relay conversation between people who use text telephones and people who use traditional telephones.

² See Notice of Proposed Rulemaking, CC Docket No. 90-571, 55 Fed. Reg. 50037 (Dec. 4, 1990); 5 FCC Rcd 7187 (1990).

³ See S.933, Pub. L. 101-336, 104 Stat. 327, 366-69 (July 26, 1990).

⁴ Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, CC Docket No. 90-571, Report and Order and Request for Comments, 6 FCC Rcd 4657 (1991) (*TRS Order*).

⁵ Telecommunications Services for Individuals with Hearing

and Speech Disabilities, and the Americans with Disabilities Act of 1990, Order on Reconsideration, Second Report and Order, and Further Notice of Proposed Rulemaking, 8 FCC Rcd 1802 (February 25, 1993), (hereinafter *TRS II*).

⁶ See *TRS II* at Appendix D.

Appendix A lists the parties filing comments and reply comments, as well as abbreviations used throughout this Order to refer to those parties.

⁸ *TRS II* at Appendix D, Section 64.604 (c)(4)(iii).

⁹ *TRS II* at Appendix D, Section 64.604 (c)(4)(iii)(i).

¹⁰ Comments of USTA at 9.

control administrative costs in its performance as administrator of other pools. Specifically, MCI proposes that the Commission adopt a self-funding mechanism for the first year of TRS implementation, then utilize a pooling mechanism, with the administrator selected through a competitive bidding process. MCI asserts that this alternative would give TRS providers an extension of time in which to gain experience providing this new telecommunications service. As a second alternative, MCI proposes that NECA act as interim administrator for two years, requiring NECA to submit to the Commission annual reports reflecting actual and projected administrative costs. After this interim period, MCI proposes that the Commission transfer the task to a competitively selected bidder. Further, MCI proposes that the administrator of the fund be a not-for-profit entity, paid on a flat, monthly fee basis because this arrangement would eliminate any incentive to overcharge contributors and the administrator would return or carry-over any excess funds to the TRS Fund.

6. In their reply comments, GTE reiterates that NECA should be selected as administrator because NECA has improved its record as a fund administrator, and lowered its administrative costs in administering other pools.¹¹ Many commenters assert that MCI's self-funding approach would needlessly delay implementation. In its reply comments, NECA asserts that dramatic changes have occurred in its organization since 1988, and that it has demonstrated the high level of competence necessary to act as TRS Fund administrator.

7. *Decision.* Because of its experience in administering other pooling arrangements, including the USF and Lifeline Assistance programs, and because a broad cross-section of interested parties commenting in the record support the shared-funding mechanism and the selection of NECA, NECA shall act as interim administrator of the TRS Fund. MCI's self-funding alternative was thoroughly examined in *TRS II* and rejected. However, we are persuaded that MCI's proposal that NECA serve an interim term as administrator and report its administrative costs to the Commission on an annual basis is an appropriate approach. Therefore, we shall review NECA's performance after two years. Further, we will entertain proposals by other parties interested in functioning as future administrator of the TRS Fund and shall solicit comment and alternative proposals. Further, we direct NECA to report annually to the Commission an itemization of monthly administrative costs which shall consist of all expenses, receipts, and payments associated with the administration of TRS Fund. The administrator shall file a cost allocation manual (CAM)¹² with the Commission, and shall provide the Commission full access to all data collected pursuant to the administration of the TRS Fund. We further require that the administrator shall be subject to a yearly audit by an independent certified accounting firm and by the Commission, if the Commission so requests. The administrator is further required to keep the TRS Fund separate from all other funds under the control of the administrator.

8. We find merit in the proposal of NCLD, Robinson, and NARUC that there be an advisory committee to monitor TRS cost recovery issues. We find that as part of its administrative function, NECA should establish such a committee and consider guidance from its members on TRS issues. Therefore, we further direct NECA to establish a non-paid, voluntary advisory committee of persons from the hearing and speech disability community, TRS users (voice and text telephone), interstate service providers, state representatives, and TRS providers. Each group shall select its own representative to the committee. The committee will meet at reasonable intervals (at least semi-annually) in order to monitor TRS cost recovery matters. NECA's annual report to the Commission shall include a discussion of advisory committee deliberations. We find that with these additional safeguards in place, NECA is uniquely placed to effectuate timely and efficient implementation of the TRS Fund.

B. Contributions to the TRS Fund

9. *Comments.* The Commission, in *TRS II*, proposed that a charge would be assessed on all common carriers that offer interstate telecommunications services on the basis of their relative share of nationwide interstate revenues for common carrier services.¹³ In their comments, Ameritech, Bell Atlantic, BellSouth, USTA, MCI, SWB, NECA, and GTE generally support the Commission's proposal that contributions to the fund be based on relative share of interstate revenues. However, these commenters request clarification as to what constitutes interstate telecommunications services. Specifically, Sprint, NYNEX, MCI, Ameritech, Bell Atlantic, BellSouth, and USTA propose that the Commission clarify that revenues from access charges and end-user line charges be excluded from the fund because inclusion of access revenues will cause double-billing and subscriber line charges do not constitute interstate service revenues, rather they are flat rate charges that do not reflect usage of interstate service. Further, these commenters propose that the Commission require TRS Fund contributions from providers of every interstate service including resellers, cellular carriers, interstate alternative access and special access, packet-switched, WATS, 800, private dedicated, international,¹⁴ satellite, and interstate intraLATA service providers. NCLD, Robinson, and USTA propose that the widest possible scope of interstate service providers should contribute to the fund including all current and future interstate providers of end-to-end or intermediate transport, whether common carrier or non-common carrier, pursuant to the language of the ADA on cost recovery.

10. In its comments, NECA proposes that the Commission clarify that contributions should be billed based on interstate revenues that are booked in accounts 5100-5169 of the Uniform System of Accounts, 47 CFR § 32.5100-5169, which would not include access revenues which NECA concurs would cause double billing of services. NECA asserts that contributions should be made by resellers and that the Commission's rules should be modified to require facilities-based carriers to exclude revenues

¹¹ Reply comments of GTE at 13.

¹² This manual will describe the accounts and procedures the administrator will use to segregate and allocate the costs of administering the TRS Fund from its other operations.

¹³ *TRS II* at Appendix D, Section 64.604 (c)(4)(iii)(a).

¹⁴ Sprint argues that international services should be included because TRS providers will be compensated by the administrator for international TRS minutes of use.

associated with resold services. NECA further proposes a "banding" mechanism for use with interstate service providers that have revenues below a certain amount. NECA and other commenters propose the banding mechanism in order to avoid administrative burdens for small carriers and high administrative costs for the administrator of the fund. NECA proposes that the administrator would bill a flat rate on a quarterly or annual basis if the contributor's share is *de minimis*.

11. In their comments, AT&T, ACTA, and GCI propose that contributions to the fund be based on a pro-rata share of interstate traffic minutes because they contend that this is a more equitable method of calculation than contributions based on gross interstate revenues. CTIA, in its comments, asserts that cellular services are essentially intrastate, that less than 1% of the cellular industry revenue is from interstate services, and that cellular carriers lack information required to determine their pro rata share of interstate services. Therefore, CTIA proposes that the banding alternative be utilized for cellular carriers. BellSouth, McCaw, USTA, and GTE concur with NECA and CTIA and propose that a banding mechanism be utilized where the pro rata share of gross interstate revenues would generate less than a \$100 yearly contribution to the fund.

12. *Decision.* In order to provide universal telephone service to TRS users as mandated by the ADA, Congress ordered the Commission to prescribe regulations providing generally that costs caused by interstate telecommunications relay services should be recovered from all subscribers to every interstate service. Commenters proposed that we clarify and define with specificity the persons who would be required to contribute to the TRS Fund. Congress may have contemplated that the Commission might recover the cost for the interstate telecommunications relay service through the imposition of a fixed monthly charge on residential customers,¹⁵ similar to the subscriber line charges assessed on subscribers to local telephone service under Part 69 of the Commission's rules,¹⁶ even though doing so would not seem to capture "all subscribers to every interstate service." Representatives of the hearing impaired find this cost recovery mechanism objectionable,¹⁷ and we do not choose to use such a mechanism. However, we believe that we can accomplish the goals of the Act by having NECA recover these costs from all common carriers that provide interstate service.¹⁸ USTA argues that in the July 12, 1990 House Conference Report on Pub. Law 101-336, the Conference Committee stated that the costs of interstate relay service should be "recovered from all subscribers for every interstate service, even

those businesses that have private telecommunications systems".¹⁹ We believe that recovering interstate relay costs from all common carriers who provide interstate service on the basis of their interstate revenues will accomplish this goal. It appears that Congress intended the term "private telecommunications systems" to mean private networks provided by common carriers, such as AT&T's Tariff 12 offerings. These networks, therefore, will be included in the cost recovery process.²⁰ Nothing in the legislative history indicates that Congress intended the term "private telecommunications systems" to mean facility-based private networks owned and operated by private carriers or private entities.²¹ Accordingly, we direct that for the purposes of funding interstate TRS, interstate service includes, but is not limited to, the interstate portion of: cellular telephone and paging, mobile radio, operator services, personal communications service (PCS), access (including subscriber line charges), alternative access and special access, packet-switched, WATS, 800, 900, message telephone (MTS), private line, telex, telegraph, video, satellite, international, intraLATA, and resale services, provided by common carriers.

13. Some commenters assert that it is inappropriate to require contributions from providers of resale services, access services, or cellular services. Some commenters suggest that double payment would occur if both resold and underlying services are subject to contribution. These commenters assert that double payment results because the charge for the resold service would presumably cover the contribution for the resold service as well for the underlying services. However, current accounting requirements do not separate carrier revenues for services provided to resellers from services provided to final customers. Similarly, current accounting requirements do not separate the cost of underlying service obtained for resale from other carrier costs. For most carriers, the cost of identifying double counting would probably exceed the contribution associated with any double counting. Even if the rules exempted resold service from contribution, it is unlikely that all customers would, in effect, end up making equal proportionate contributions, because most interstate rates are not calculated on a cost plus basis, but rather, are shaped by market forces. Accordingly, the potential unfairness of double counting is not sufficient to justify excluding access or resale services from contribution. This treatment also is consistent with the purpose of the ADA which is to recover the costs of TRS from all providers of interstate services.

¹⁵ See House Conference Report No. 101-558, June 26, 1990, 101st Cong., 2nd Sess., at para. 67, where the Conference Committee removed the Senate bill's prohibition on such monthly subscriber line charges as a mechanism for funding a telecommunications relay system.

¹⁶ See 47 C.F.R. § 69.104. The subscriber line charge or end user common line charge is imposed upon all end users that subscribe to local exchange telephone service, Centrex, or semi-public coin telephone service to the extent they do not pay carrier common line charges. That charge is billed pursuant to interstate tariffs filed by all carriers that provide local exchange telephone service. See 47 C.F.R. § 69.2(hh).

¹⁷ See e.g., comments of NCLD summarized in *TRS Order*, note 4, *supra*, at para. 32.

¹⁸ The common carriers, of course, would in turn recover these costs from their subscribers.

¹⁹ See USTA Reply Comments at 3-4, citing House Conference Report No. 101-596, July 12, 1990, 101st Congress, 2d Session. "Private telecommunications system" is not further defined or described.

²⁰ We agree with USTA that "the Commission should not view the funding base as being static; rather, it is a continuing evolutionary process, with new players being added from time to time." See USTA Reply Comments at 4.

²¹ We note that when these interstate private facilities interconnect with the public switched telephone network, they will generally pay either interstate access charges or a special surcharge pursuant to Section 69.115 of the Commission's rules. They will, in this manner, add to the interstate revenue base.

14. In its comments, NECA argues that most subscriber line charges are capped, and that any contribution attributed to subscriber line charges would, in fact, be recovered from users of other interstate access service. We do not find merit in NECA's incremental cost argument. Our general approach is to identify all interstate common carrier services, and to assess a contribution factor against the revenue from those services. All carriers subject to Part 32 of the Commission's rules will record TRS contributions in their books of account in the manner prescribed by the Uniform System of Accounts. Federal subscriber line charges are billed to the public to recover at least part of the interstate costs of providing the local loop. Therefore, we find this is an interstate service for purposes of recovering TRS costs.

15. With regard to cellular service providers, we find no basis upon which to exclude revenues from interstate cellular services. We find that all interstate revenue associated with cellular service shall be subject to TRS contribution.

16. Based upon the record before us, we find that contributions shall be based on each interstate service provider's relative share of gross interstate revenues subject to contribution as modified above. We reject the proposals of AT&T, ACTA, and GCI. While a calculation based upon minutes of use could provide an accurate measure of a service provider's share of switched services, this method would not account adequately for services that utilize dedicated facilities, and would not encompass various types of new services offered by traditional and emerging carriers. Accordingly, contributors shall calculate their contribution to the TRS fund as the product of their subject revenues for the prior calendar year and a contribution factor determined by the Commission. For efficiency of administration, we modify our proposed rules to incorporate a minimum yearly contribution of \$100. Thus, each subject carrier must contribute at least \$100 per year. Service providers whose annual contributions total less than \$1,200 must pay the entire contribution at the beginning of the contribution period. Service providers whose contributions total \$1,200 or more may divide their contributions into equal monthly payments.

17. Initial contributions to the TRS Fund are due September 26, 1993. The Commission has developed a "TRS Fund Worksheet," which shall be published in the Federal Register to enable contributors to determine their contributions. Upon approval by the Office of Management and Budget, a Public Notice will be issued, indicating how copies may be obtained. In order to facilitate timely filing, the proposed TRS Fund Worksheet is included herein as Appendix D. The worksheet will direct each carrier to provide identification information and revenue data, to calculate a TRS contribution, and to file the worksheet and contribution with the FCC TRS Fund Administrator. The worksheet shall be certified to by an officer of the contributor, and subject to verification by the Commission or the administrator at the discretion of the Commission. Contributors' statements in the worksheet shall be subject to the enforcement provisions of the Act.

18. Carriers are to provide gross revenues by 10 categories of revenues. These categories represent major types of telecommunications services. Carriers will report gross revenues, rather than interstate revenues, because gross

revenues can be traced to a carrier's books of account. Carriers are required to estimate the percentage of each revenue category that arises from interstate service.

C. Computation of Fund Contributions

19. *Comments.* In *TRS II*, we asked for comment regarding the feasibility of requiring all carriers subject to the ADA to report interstate revenues to the fund administrator and on whether the administrator should play a role in enforcing compliance with such a rule.²² Several commenters expressed concern that much of the information to be collected by a fund administrator in order to determine the calculations for fund contributions is confidential and proprietary in nature. Specifically, ACTA, AT&T and USTA, in their comments, request that the Commission prescribe uniform protective agreements, to be used in the same manner as those used in tariff investigations. MCI proposes that the data collected for calculation of fund contributions by NECA be held confidential for one year. In its comments, NECA proposes that filings associated with contributions not be treated as tariff filings because the administrator will not be offering TRS service. Further, NECA proposes that the proposed rules be modified to require that the administrator shall keep all data obtained from TRS providers and contributors confidential, shall not use such data except for purposes of administering the TRS Fund, and shall not disclose such data in company-specific form unless directed to do so by the Commission.

20. *Decision.* As noted above, and in order to lessen administrative burdens on contributors to the fund and the fund administrator, we modify the proposed rules to require that all providers of interstate services calculate their TRS contributions in accordance with the TRS Fund Worksheet. The contributor shall file the TRS Fund Worksheet, along with any amounts due, with the fund administrator. The Commission shall have full access to all data received by the administrator. Requests for Commission nondisclosure can be made under 47 C.F.R. § 0.459. The Commission will base a carrier's contribution on the ratio of the expected TRS payments to interstate service revenues subject to contribution, which shall be calculated on the basis of information provided by the administrator.

21. The contribution factor to be used in the TRS Fund Worksheet for the initial contribution period, July 26, 1993 through April 26, 1994, is .00047. This factor is based on the ratio of expected costs for providing interstate TRS for one year and the expected interstate revenue base. The National Exchange Carrier Association (NECA), the interim TRS Fund administrator, estimates a first year funding requirement of \$30 million based on their estimate of 14 to 17 million minutes of interstate TRS service, a payment of about \$1.705 per interstate TRS minute, administrative expenses of about \$312,000, development costs of about \$567,000, and uncollectibles of \$800,000. Appendix C estimates a 1992 interstate revenue base of \$63,464 million. Accordingly, a contribution of \$0.00047 for each dollar of interstate revenue should provide adequate TRS funding. To allow for the uncertainties in estimating both costs and reportable revenues, the initial contribution period provides TRS funding for 9 months, while the contribution rate is based on expected TRS funding requirements for 12 months.

²² *TRS II*, at 11.

22. This calculation is necessarily inexact. In the event that contributions exceed TRS payments and administrative costs, the contribution factor for the following year will be adjusted by an appropriate amount, taking into consideration projected cost and usage changes. In the event that contributions are inadequate, the fund administrator may request authority from the Commission to borrow funds commercially, with such debt secured by future year TRS contributions. In such event, the contribution factor for the following year's contributions shall be increased by an appropriate amount. Further, we find merit in NECA's proposal regarding confidentiality and require that the fund administrator keep all data obtained from TRS providers and contributors confidential, not use such data except for purposes of administering the TRS Fund, and not disclose such data in company-specific form unless directed to do so by the Commission.

D. Data Collection and Payments to Providers

23. *Comments.* In *TRS II*, the Commission proposed that TRS providers give the administrator true and accurate data necessary to compute payments to providers, including total TRS minutes of use, total interstate TRS minutes of use, TRS operating expenses, TRS interstate investment, and other information necessary to compute charges and payments to providers. Further, the Commission tentatively determined that TRS providers would be permitted to recover interstate TRS costs based on a national average TRS interstate minute of use rate.²³ In their comments, Sprint, USTA, Ameritech, MCI and NECA fully support the average national rate proposal because it encourages carriers and providers to develop cost-effective measures in order to meet or better the average compensation rate.²⁴ Further, the majority of commenters agree that all providers should report costs to the fund administrator as proposed, rather than have the administrator sample providers in order to establish the rate. All commenters agree that cost data submissions for the first year of the plan should be clarified with regard to the proposed requirements for notification of intent to receive payments from the TRS Fund. BellSouth contends that payments to providers should be based on actual costs, not on national average rates. DCPSC proposes a high cost fund subsidy for high cost TRS jurisdictions because, DCPSC argues, minute cost may increase if volume increases, and this may create a disincentive for the provision of quality TRS.²⁵

24. In the proposed rules, the Commission defined TRS "minutes of use" as the minutes of use for completed calls beginning after call set-up and concluding after the last message call unit. See *TRS II*, Appendix D, Section 64.604(c)(4)(iii)(e). However, MCI proposes that the full cost of providing TRS minutes of use should include call attempts, ring-no-answer and busy signals, call set-up time, and caller information for first-time users because this would be functionally equivalent to network processing of voice calls. AT&T and the majority of commenters oppose MCI's proposal and recommend that administrative calls including handling billing inquiries, customer service and the provision of information be excluded from the defini-

tion of "minutes of use" because allowing for such compensation would create a perverse economic incentive for inefficiency by rewarding additional call set-up time.²⁶

25. In its comments, NECA concurs with AT&T's contentions and further proposes that payments should only be available for calls that are actually billed to end-users. NECA further proposes that all TRS providers be required to submit true and accurate data to NECA, and that the Commission enable NECA to request that the Commission take action to investigate any alleged failure to comply with the rules. In its reply comments, NECA proposes that, except for the first year of the fund, the administrator file, on October 1, payment schedule formulas to be effective for one year periods beginning January 1. NECA asserts that this approach would lessen administrative burdens on NECA and TRS providers by reducing the number of data collections and filings to one per year. With regard to administrative costs, NECA proposes that the administrator recover its administrative expenses solely from the TRS Fund, before payments are disbursed from the Fund.

26. In its comments, NCLD proposes that payments should only be distributed to TRS providers that are in compliance with the minimum standards set forth in Section 64.604 of the Commission's rules. NYNEX, Hamilton and MCI propose that the Commission revise Section 64.604(c)(4)(iii)(f) to permit actual providers of state TRS programs to receive payments. Specifically, Hamilton proposes that the Commission modify the rule to reflect that state contract TRS providers selected by the state can submit data to NECA and NECA may make payments directly to that contractor.

27. In *TRS II*, the Commission proposed that TRS providers receiving payments shall be subject to Parts 32 and 36 of the Commission's rules for purposes of the TRS fund plan.²⁷ Many of the commenters propose that special guidelines be established for jurisdictional apportionment based on actual minutes of use because standard Part 36 categories identifying TRS service may not exist. Specifically, AT&T proposes that in lieu of reliance on Parts 32 and 36 procedures, the Commission should allow TRS providers to report to the administrator those costs that are incremental to the costs those carriers incur in providing intrastate TRS service. SWB contends that the separations rules contained in Parts 32 and 36 of the rules are understood and suitable and that AT&T's incremental cost proposal is flawed because it would shift the burden of support for the TRS infrastructure to the intrastate subscriber. Most commenters state that TRS providers should not be subject to the separations and accounting rules of Parts 32 and 36 because many providers have never been subject to these rules, and requiring them to be subject to these rules will increase the cost of providing TRS.²⁸ Instead, these commenters propose that the Commission's rules exclude TRS costs from the separations process and establish a simple allocation procedure. Many commenters concur with the alternative proposal of an abbreviated procedure, if it contains acceptable safeguards, in order to avoid heavy administrative burdens. NARUC disagrees with other commenters and urges the Commission to establish a Joint

²³ *TRS II* at Appendix D, Section 64.604 (c)(4)(iii)(c) and (e).

²⁴ See Comments of Sprint at 5.

²⁵ The proposals of BellSouth and DCPSC received no support

from other commenters to this proceeding.

²⁶ Reply comments of AT&T at 9.

²⁷ *TRS II*, Appendix D, Section 64.604 (c)(4)(iii)(e).

²⁸ See e.g., Comments of AT&T, BellSouth, GCI, MCI, NECA, and McCaw.

Board, pursuant to Section 410(c) of the Act, or alternatively, establish an advisory committee pursuant to Section 410(b), to monitor the implementation of the ADA.

28. In its comments, NECA agrees that the imposition of Parts 32 and 36 accounting requirements on TRS providers will present significant administrative burdens for TRS providers, the administrator and the Commission. Because it may not be feasible for TRS providers to conform their accounts to this methodology, NECA proposes that a data request will establish comparable account definitions and procedures reasonably structured to meet TRS needs.²⁹ Sprint concurs with NECA's approach and proposes that Parts 32 and 36 requirements should not be imposed on TRS providers that do not currently use them.

29. *Decision.* Based upon the record before us, we first determine that TRS providers shall be permitted to recover interstate TRS costs based on a national average TRS interstate minutes of use rate. We are persuaded by commenters that the proposed rule defining "minutes of use" is appropriate and will encourage providers to develop efficient and cost-effective TRS programs. We note that "minutes of use" is used as the allocator for operator services in part 36 of the Commissions rules. Second, we find that payments shall only be available for interstate TRS calls that are placed by TRS users and that only TRS providers in compliance with the mandatory minimum standards set forth in Section 64.604 and specific eligibility set forth in Section 64.604 (c)(4)(iii)(f) of the Commission's rules shall be eligible for TRS Fund payments. These rules are designed to prevent double payment. We are persuaded by Hamilton and others to modify the rules to reflect that TRS providers selected by the state can submit data to the administrator and the administrator may make payments directly to those contractors.

30. Third, based on the record, we direct the administrator to fashion a form that is consistent with Parts 32 and 36 procedures reasonably tailored to meet the needs of TRS providers who would otherwise not be subject to part 32 of the rules. Further, we find that existing accounting and separations rules should be adequate to deal with the provision of interstate TRS by subject service providers and, therefore, a Joint Board proceeding at this time is unnecessary.³⁰ Lastly, TRS providers will report to the fund administrator accurate and true data as set forth in section 64.604, and the fund administrator shall use the data to calculate a national average TRS minutes of use rate in order to distribute payments to TRS providers. The rate calculated by the administrator shall be subject to Commission approval and the Commission shall have authority to audit providers and access to all data, including carrier specific data, collected by the fund administrator. The fund administrator shall have authority to audit TRS providers reporting data to the administrator.

IV. CONCLUSION

31. For the reasons set forth above, we conclude that the TRS Fund will create strong incentives for TRS providers to offer high quality, innovative services at reasonable cost. Moreover, by compensating TRS providers based on actual interstate relay minutes of use, TRS providers who provide excellent service to the public and generate strong demand for TRS will be reasonably compensated by all subscribers of every interstate service. We further conclude that the TRS Fund will further the goal of the ADA to provide functionally equivalent telephone service for all Americans.

V. PROCEDURAL MATTERS

32. *Final Regulatory Analysis:* Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. Section 601, *et seq.*, the Commission's final analysis in this *Third Report and Order* is as follows:

I. Need and purpose of this action:

This *Third Report and Order* further amends the Commission's rules to require that each common carrier engaged in interstate and/or intrastate telephone voice transmission services shall, no later than July 26, 1993, provide telecommunications relay services throughout the area in which it offers service. The rule amendments are required by the Americans with Disabilities Act of 1990, which, *inter alia*, added Section 225 to the Communications Act of 1934, as amended, 47 U.S.C. Section 225. The rules are intended to ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to all Americans.

II. Summary of issues raised by the public comments in response to the Initial Regulatory Flexibility Analysis:

No comments were submitted in direct response to the Regulatory Flexibility Analysis in the *Order on Reconsideration, Second Report and Order and Further Notice of Proposed Rulemaking*.

III. Significant alternatives considered:

The *Order on Reconsideration, Second Report and Order and Further Notice of Proposed Rulemaking* in this proceeding offered several proposals and requested comments as well as the views of commenters on other possibilities. The Commission has considered all comments, and has adopted most of its proposals in addition to some alternatives recommended by commenters. The Commission considers its *Third Report and Order* to be the most reasonable course of action under the mandate of Section 225 of the Communications Act, as amended. The

Secretary shall send a copy of this *Third Report and Order* including the certification to the Chief Counsel for Advocacy of the Small Business Administration in accor-

²⁹ See Comments of NECA, Appendix C-10.

³⁰ Section 410(c) of the Communications Act of 1934, as amended, requires the Commission to refer to a Joint Board any proceeding regarding the jurisdictional separation of common carrier property and expenses between intrastate and interstate operations, which the Commission institutes pursuant to a

notice of proposed rulemaking. We are not proposing any changes to the existing separations rules for subject carriers, and are requiring NECA's cost recovery form to be consistent with Parts 32 and 36. Finally, consistent with NARUC's views, we are directing NECA to establish an advisory committee, to include state regulatory officials.

dance with paragraph 603(A) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. Section 601 *et seq.* (1981).

VI. ORDERING CLAUSES

33. Accordingly, It is Ordered, That, pursuant to Sections 1, 4(i), 4(j), 201-205, 225 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 151, 154(i), 154(j), 201-205, 225 and 403, Part 64 of the Commission's Rules and Regulations IS AMENDED as set forth in Appendix B hereof, effective on the date a summary of this order is published in the Federal Register.³¹

34. It is Further Ordered, That the *TRS Fund Worksheet*, July 1993 is hereby adopted, and the worksheet will be published in the Federal Register.

35. It is Further Ordered, That, pursuant to the requirements of Section 604 of the Regulatory Flexibility Act, 5 U.S.C. 604, the Secretary shall cause a summary of this *Third Report and Order* to be published in the Federal Register which shall include a statement describing how members of the public may obtain such copies. The Secretary shall also provide a copy of this *Third Report and Order* to each state utility commission and to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

William F. Caton
Acting Secretary

APPENDIX A

LIST OF COMMENTERS

Allnet Communications Services, Inc. (Allnet)**
America's Carriers Telecommunications Association (ACTA)
American Public Communications Council (APCC)*
American Telephone and Telegraph Company (AT&T)*
Ameritech Operating Companies (Ameritech)
Bell Atlantic Telephone Companies (BellAtlantic)*
BellSouth Corporation (BellSouth)*
Cellular, Inc. (Cellular)**
Cellular Telecommunications Industry Association (CTIA)*
Deafness Education Advocacy Foundation (DEAF)
District of Columbia Public Service Commission (DCPSC)

GE American Communications, Inc. (GE)*

General Communications, Inc. (GCI)

GTE Service Corporation (GTE)*

Hamilton Telephone Company (Hamilton)

McCaw Cellular Communications, Inc. (McCaw)**

MCI Telecommunications Corporation (MCI)*

National Association of Regulatory Utility Commissioners (NARUC)

National Center for Law and Deafness, Telecommunications for the Deaf, Inc. and the National Association of the Deaf (NCLD)*

National Exchange Carrier Association (NECA)*

New York Telephone Company and New England Telephone and Telegraph (NYNEX)*

Kenneth Robinson (Robinson)

Southwestern Bell (SWB)*

Sprint Corporation (Sprint)*

Telecommunications Resellers Association (TRA)

United States Telephone Association (USTA)*

* Filed Reply Comments

** Filed Reply Comments only

APPENDIX B

Part 64 of the Commission's Rules and Regulations (chapter 1 of Title 47 of the Code of Federal Regulations, part 64) is amended as follows:

PART 64 - MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

1. The authority citation for Part 64 continues to read as follows:

Authority: Section 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 225, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, 225 unless otherwise noted.

2. Section 64.604(c)(4) is amended to read as follows:

(c) Functional standards.

(1) * * *

(2) * * *

(3) * * *

(4) Jurisdictional separation of costs.

(i) * * *

(ii) * * *

³¹ We find good cause for making the rule amendments effective on less than 30 days notice because Title IV of the ADA requires TRS implementation by July 26, 1993.

(iii) Telecommunications Relay Services Fund. Effective July 26, 1993, an Interstate Cost Recovery Plan, hereinafter referred to as the TRS Fund, shall be administered by an entity selected by the Commission (administrator). The initial administrator, for an interim period, will be the National Exchange Carrier Association, Inc.

(a) Contributions. Every carrier providing interstate telecommunications services shall contribute to the TRS Fund on the basis of its relative share of gross interstate revenues as described herein. Contributions shall be made by all carriers who provide interstate services, including, but not limited to, cellular telephone and paging, mobile radio, operator services, personal communications service (PCS), access (including subscriber line charges), alternative access and special access, packet-switched, WATS, 800, 900, message telephone service (MTS), private line, telex, telegraph, video, satellite, intraLATA, international and resale services.

(b) Contribution computations. Contributors' contribution to the TRS fund shall be the product of their subject revenues for the prior calendar year and a contribution factor determined annually by the Commission. The contribution factor shall be based on the ratio between expected TRS Fund expenses to total interstate revenues. In the event that contributions exceed TRS payments and administrative costs, the contribution factor for the following year will be adjusted by an appropriate amount, taking into consideration projected cost and usage changes. In the event that contributions are inadequate, the fund administrator may request authority from the Commission to borrow funds commercially, with such debt secured by future year contributions. Each subject carrier must contribute at least \$100 per year. Service providers whose annual contributions total less than \$1,200 must pay the entire contribution at the beginning of the contribution period. Service providers whose contributions total \$1,200 or more may divide their contributions into equal monthly payments. Contributions shall be calculated and filed in accordance with a "TRS Fund Worksheet," which shall be published in the Federal Register. The worksheet sets forth information that must be provided by the contributor, the formula for computing the contribution, the manner of payment, and due dates for payments. The worksheet shall be certified to by an officer of the contributor, and subject to verification by the Commission or the administrator at the discretion of the Commission. Contributors' statements in the worksheet shall be subject to the provisions of Section 220 of the Communications Act of 1934, as amended. The fund administrator may bill contributors a separate assessment for reasonable administrative expenses and interest resulting from improper filing or overdue contributions.

(c) Data collection from TRS Providers. TRS providers shall provide the administrator with true and adequate data necessary to determine TRS fund revenue requirements and payments. TRS providers shall provide the administrator with the following: total TRS minutes of use, total interstate TRS minutes of use, total TRS operating expenses and total TRS investment in general accordance with Part 32 of the Communications Act, and other historical or projected information reasonably requested by the administrator for purposes of computing payments and revenue requirements. The administrator and the Commission shall have the authority to examine, verify and audit data received from TRS providers as necessary to assure the accuracy and integrity of fund payments.

(d) The TRS Fund will be subject to a yearly audit performed by an independent certified accounting firm or the Commission, or both.

(e) Payments to TRS Providers. TRS Fund payments shall be distributed to TRS providers based on formulas approved or modified by the Commission. The administrator shall file schedules of payment formulas with the Commission. Such formulas shall be designed to compensate TRS providers for reasonable costs of providing interstate TRS, and shall be subject to Commission approval. Such formulas shall be based on total monthly interstate TRS minutes of use. TRS minutes of use for purposes of interstate cost recovery under the TRS Fund are defined as the minutes of use for completed interstate TRS calls placed through the TRS center beginning after call set-up and concluding after the last message call unit. In addition to the data required under subsection (c) above, all TRS providers, including providers who are not interexchange carriers, local exchange carriers, or certified state relay providers, must submit reports of interstate TRS minutes of use to the administrator in order to receive payments. The administrator shall establish procedures to verify payment claims, and may suspend or delay payments to a TRS provider if the TRS provider fails to provide adequate verification of payment upon reasonable request, or if directed by the Commission to do so. TRS Fund administrator shall make payments only to eligible TRS providers operating pursuant to the mandatory minimum standards as required in Section 64.604, and after disbursements to the administrator for reasonable expenses incurred by it in connection with TRS Fund administration. TRS providers receiving payments shall file a form prescribed by the administrator. The administrator shall fashion a form that is consistent with Parts 32 and 36 procedures reasonably tailored to meet the needs of TRS providers. The Commission shall have authority to audit providers and have access to all data, including carrier specific data, collected by the fund administrator. The fund administrator shall have authority to audit TRS providers reporting data to the administrator.

(f) TRS providers eligible for receiving payments from the TRS Fund are:

(1) TRS facilities operated under contract with and/or by certified state TRS programs pursuant to Section 64.605; or

(2) TRS facilities owned by or operated under contract with a common carrier providing interstate services operated pursuant to Section 64.604; or

(3) interstate common carriers offering TRS pursuant to Section 64.604.

(g) Any eligible TRS provider as defined in section (f) of this section shall notify the administrator of its intent to participate in the TRS Fund thirty (30) days prior to submitting reports of TRS interstate minutes of use in order to receive payment settlements for interstate TRS, and failure to file may exclude the TRS provider from eligibility for the year.

(h) Administrator reporting, monitoring, and filing requirements. The administrator shall perform all filing and reporting functions required under Section 64.604 (c)(4)(iii)(a) through (j), inclusive. Beginning in 1994, TRS payment formulas and revenue requirements shall be filed with the Commission on October 1 of each year, to be effective for a one-year period beginning the following January 1. The administrator shall report annually to the Commission an itemization of monthly administrative costs

which shall consist of all expenses, receipts, and payments associated with the administration of TRS Fund. The administrator is required to keep the TRS Fund separate from all other funds administered by the administrator, shall file a cost allocation manual (CAM), and shall provide the Commission full access to all data collected pursuant to the administration of the TRS Fund. The administrator shall establish a non-paid, voluntary advisory committee of persons from the hearing and speech disability community, TRS users (voice and text telephone), interstate service providers, state regulatory representatives, and TRS providers, which will meet at reasonable intervals (at least semi-annually) in order to monitor TRS cost recovery matters. Each group shall select its own representative to the committee. The administrator's annual report shall include a discussion of advisory committee deliberations.

(i) Information filed with the administrator. The administrator shall keep all data obtained from contributors and TRS providers confidential, shall not use such data except for purposes of administering the TRS Fund, and shall not disclose such data in company-specific form unless directed to do so by the Commission. The Commission shall have access to all data reported to the administrator, and authority to audit TRS providers.

(j) The administrator's performance and this plan shall be reviewed by the Commission after two years.

(k) All parties providing services or contributions or receiving payments under this section are subject to the enforcement provisions specified in the Communications Act, the Americans with Disabilities Act, and the Commission's rules.

* * *

**SEPARATE STATEMENT
OF
COMMISSIONER ANDREW C. BARRETT**

Re: Telecommunications Relay Services, and the Americans with Disabilities Act of 1990 [CC Docket No. 90-571]

In this Third Report and Order, the Commission adopts a shared-funding mechanism to recover interstate telecommunications relay services (TRS) costs. My vote to adopt this item should not be misconstrued as indicating general support for shared-funding mechanisms. Rather, I believe their use should, in general, be limited to services with clearly identified social benefits, and to instances where other funding mechanisms would not adequately serve the public interest. Use of a shared-funding mechanism to recover TRS costs meets these tests.

My second concern is that the TRS fund be administered in as efficient, reliable and accountable a manner as possible. The National Exchange Carrier Association (NECA) will function as administrator of the TRS fund for an interim two year period. I support the Order's provisions that there be a full assessment of NECA's performance as interim administrator, and that there be full opportunity for other entities to be considered as permanent TRS fund administrator.

Appendix C: Calculation of the TRS Fund Contribution Factor

	Reportable Revenue (Millions)	% Interstate	Interstate Revenue (Millions)
Total Toll Revenue 1/	\$71,803	55%	\$39,492
Interstate Access 2/	\$23,254	100%	\$23,254
Cellular 3/	\$5,131	14%	\$718
Total Subject Revenue			\$63,464
First Year Fund Requirement			\$30
Contribution Rate 4/			0.00047

1/ 1991 Total toll service revenues from the "Long Distance Market", March 26, 1993 plus 3.5% annual growth. The 55% allocation is based on the ratio of interstate dial equipment minutes to total toll dial equipment minutes as reported in the "Monitoring Report", CC Docket No. 87-339, May 1993.

2/ From the 1991/1992 Statistics of Communications Common Carriers.

3/ 1990 Cellular and other radio telephone revenues reported in the "Annual Survey of Communications Services: 1990", by the U.S. Department of Commerce, plus 20% annual growth. The 14% allocation is based on the ratio of interstate dial equipment minutes to total dial equipment minutes.

4/ Carriers with interstate revenues of less than \$212 thousand will pay \$100. Carriers with interstate revenues exceeding \$2539 thousand can pay monthly.

TRS Fund Worksheet

Subject to OMB approval

Expires
Estimated Average
Burden Hours Per
Response: 2 hours.

**Instructions for Completing the
Worksheet for Calculating and Filing Carrier Contributions
to fund Interstate Telecommunications Relay Service (TRS).
July 1993**

NOTICE TO INDIVIDUALS

Section 64.604(c)(4)(iii) of the Commission's Rules requires all carriers providing interstate service to complete this worksheet and to contribute funding for interstate Telecommunications Relay Services (TRS). The collection of information and fees stems from the Commission's authority under the Communications Act of 1934, Sections 4, 48, 48 Stat. 1066, as amended, 47 U.S.C. 154 unless otherwise noted. Interpret or apply Sections 201, 211, 218, 219, 220, 225 48 Stat. 1073, 1077, as amended; 47 U.S.C. 201, 211, 218, 219, 220, 225. The data in the report will be used to ensure that carriers properly fund interstate TRS. Selected information provided in the worksheet will be made available to the public in a manner consistent with the Commission's Rules. All carriers providing interstate telecommunications service must file this worksheet.

The foregoing Notice is required by the Privacy Act of 1974, P.L. 93.579, December 31, 1974, 5 U.S.C. 552(a)(e)(3), and the Paperwork Reduction Act of 1980. P.L. 96-511, Section 3504(c)(3).

Public reporting burden for this collection of information is estimated to average 2 hours per response including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission,

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Office of Managing Director, Washington, DC 20554, and the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction project (3060), Washington, DC 20503.

I. Introduction.

On July 15, 1993, the Commission adopted rules that require all providers of interstate telecommunications services to contribute to the provision of TRS based on their proportionate share of gross interstate revenues. Section 64.604(c)(4)(iii) directs carriers to calculate and file their contribution in accordance with TRS Fund Worksheet.

... Contributions shall be calculated and filed in accordance with a "TRS Fund Worksheet", which will be prepared and published in the Federal Register. The worksheet sets forth information that must be provided by the contributor, the formula for computing the contribution, the manner of payment, and due dates for payments.

II. Filing Requirements and General Instructions.

A. Who must file.

All common carriers providing interstate telecommunications services within the United States must file this worksheet. For this purpose, the United States is defined as the conterminous United States, Alaska, Hawaii, American Samoa, Baker Island, Guam, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Navassa Island, the Northern Mariana Islands, Palmyra, Puerto Rico, the U.S. Virgin Islands, and Wake Island.

For the purpose of calculating TRS contributions, interstate telecommunications service includes, but is not limited to the interstate portion of the following types of services: cellular telephone and paging, mobile radio,

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operator services, personal communications service (PCS), access (including Subscriber Line Charges), alternative access and special access, packet-switched, WATS, 800, 900, message telephone service (MTS), private line, telex, telegraph, video, satellite, international, intraLATA, and resale services. Carriers that provide only intrastate service need not file. Note, however, that all local exchange carriers provide interstate access services, and must file.

Entities may not file summary reports for more than one carrier. Each legal entity that provides interstate telecommunications service must file separately. All affiliates or subsidiaries should identify the ultimate controlling parent or entity in Block 1, Line (1-b) -- Holding Company.

B. When and Where to File

The 1993 TRS contribution period will fund interstate TRS provided between July 26, 1993 and April 30, 1994. Monthly contributions for the 1993 TRS contribution period must be received by the 26th of each month for September 1993 through March 1994. A revised TRS Worksheet will be released for the 1994 TRS contribution period. The revised TRS Worksheet will have instructions for payments due April 26, 1994 through March 26, 1995.

The legal name of the carrier should be shown on all checks exactly as it appears on the completed TRS Fund Worksheet. **Do not mail the TRS worksheet or TRS contribution checks to the FCC.** Payments must be received by the FCC TRS Fund Administrator -- the National Exchange Carrier Association (NECA) -- no later than the dates indicated below. The filing schedule is as follows:

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Mailing Address	Worksheet Due September 26, 1993	Payments Due September 26, 1993 through March 26, 1993 *
NECA TRS P.O. Box 360090 Pittsburgh, PA 15251-6090		Check **
NECA FCC TRS Fund Administration 100 South Jefferson Rd. Whippany, NJ 07981 Telephone: 201-884-8000	Completed Worksheet	Photocopy of check **
<p>* Carriers whose total 1993 TRS contribution is less than \$1200 must pay the total amount to the FCC TRS Fund Administrator no later than September 26, 1993. Carriers whose total 1993 TRS contribution is \$1200 or greater may elect to make seven equal monthly payments with the first payment due to the FCC TRS Fund Administrator no later than September 26, 1993.</p> <p>** Carriers are encouraged to contact the FCC TRS Fund Administrator to make arrangements for Electronic Funds Transfer.</p>		

C. Rounding of Numbers

All information provided in the worksheet, except the signature, should be neatly printed in ink or typed. Reported revenues in block 2, column (b) may be rounded to the nearest thousand dollars. Regardless of rounding, all dollar amounts must be reported in whole dollars. For example, \$2,271,881.93 could be reported as \$2,271,882 or as \$2,272,000, but could not be reported as \$2272 thousand or \$2.272 million.

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Percentages reported in block 2, column (c) should be rounded to the nearest whole percent. For example, if the ratio of interstate to total revenue was .4269155, then the figure 43% should be reported. Percentages between 0% and 1% should be reported as 1%.

Interstate revenues are calculated as total revenues in column (b) times the percentage shown in column (c). Calculated interstate revenues should be rounded to the nearest whole dollar and entered in column (e). Similarly, the total contribution (block 3, line (18)) and amounts enclosed with the filing (block 3, line (19)) should be rounded to the nearest whole dollar.

D. Compliance

Carriers failing to file the TRS Worksheet in a timely fashion are subject to the fines prescribed in Section 219(b) of the Communications Act of 1934 (the Act). Carriers filing false information are subject to fines or imprisonment as specified in Section 220(e) of the Act. Carriers failing to contribute in a timely fashion are subject to fines prescribed in Section 503(b) of the Act. In addition, Section 64.604(c)(4) of the Commission's Rules authorizes the FCC Fund Administrator to bill a carrier for reasonable costs, including legal fees, that are caused by improper filing of the worksheet or overdue TRS contributions.

III. Specific Instructions.

A. Block 1: Carrier Identification

Block 1 of the TRS Fund Worksheet requires identification information, including: the legal name of the carrier; the holding company or controlling entity, if any; the principal name under which the company conducts carrier activities; and, the complete mailing address of the corporate headquarters. In addition, Block 1 requests a telephone number that can be used for customer inquiries. Information provided in Block 1 will be published by the Common Carrier Bureau in the "Long Distance Carrier Locator".

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B. Block 2: Carrier revenue for calendar year 1992

1. Column (b)

Provide gross revenues for all telecommunications services. Gross revenues consist of total revenues billed to customers with no allowances for uncollectibles. For international services, gross revenues consist of gross revenues billed by U.S. carriers with no allowances for settlement payments. Gross revenues should also include any surcharges on communications services that are billed to the customer and either retained by the carrier or remitted to a non-government third party under contract. Gross revenues should exclude taxes and any surcharges that are not recorded as revenue, but which are instead remitted to government bodies.

Report carrier revenues using the categories shown in column (a) of Block 2. Carriers required to use the Uniform System of Accounts (USOA) prescribed in Part 32 of the Commission's rules should base their response on their USOA account data. Other carriers should divide gross revenues based on the following descriptions.

Line (5) -- Local exchange service -- should include the basic local service revenues of local exchange carriers except for local private line revenue, access revenues, and revenues from providing mobile or cellular services to the public. Line (5) should include Account 5001 -- basic area revenue; Account 5002 -- Optional extended area revenue; Account 5003 -- Cellular mobile revenue (revenue to the local exchange carrier for messages between a cellular customer and another station within the mobile service area); Account 5050 -- Customer premises revenue; Account 5060 -- Other local exchange revenue; and, Account 5069 -- Other local exchange revenue settlements. Line (5) should also include amounts in Account 5004 -- Other mobile services revenue -- that were derived from connecting with mobile service carriers.

Line (6) -- Local private line service -- should include revenues from providing local services that involve dedicated circuits, private switching arrangements and/or predefined transmission paths. Line (6) should include amounts recorded in Account 5040 -- Local private line revenue.

Line (7) -- Mobile radio, cellular, and paging -- should include revenues from the provision of mobile radio, cellular, and paging services to the public. Line (7)

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should also include amounts in Account 5004 -- Other mobile services revenue -- that were derived from providing service directly to the public.

Line (8) -- Alternative access, PCS & other -- should include all other local service revenues, including revenues for competitive access providers, personal communications services (PCS), etc. Line (8) should include Account 5200 -- Miscellaneous revenue.

Long distance revenues include intrastate, interstate, and international long distance services. Divide long distance revenues between access service, operator service, other switched service, long distance private line services, and all other long distance services.

Line (9) -- Interstate access -- should include revenues in Account 5081 -- End User revenue; Account 5082 -- Switched access revenue; and, Account 5083 -- Special access revenue. Only local exchange carriers should be reporting data in line (9).

Line (10) -- Intrastate access -- should include revenues in Account 5084 -- State access revenue. Only local exchange carriers should be reporting data in line (10).

Line (11) -- Operator service -- should include all credit card calls, person to person calls, and calls with alternative billing arrangements such as third number billing and collect calls. Operator service revenues should include all toll traffic from coin, accommodation and prison telephones.

Line (12) -- Non-operator switched toll service -- should include amounts from Account 5100 -- Long distance message revenue -- except for amounts reported in Line (11). Line 12 includes WATS, 800, 900, "WATS like" and similar service.

Line (13) -- Long distance private line service -- should include revenue from dedicated circuits, private switching arrangements, and/or predefined transmission paths, extending beyond the basic service area. Line (13) should include Account 5120 -- Long distance private network revenue.

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Line (14) -- All other long distance -- should include all other revenues from providing long distance communications services. Line (14) should include Account 5160 -- Other long distance revenue.

Total the figures in column (b) for Line (5) through Line (14) and enter this amount in Line (15b). This should represent the total communications revenues for the company.

2. Column (c) and Column (d)

For each entry in Line (5) through Line (14), estimate the percentage of revenues in column (b) that are for interstate and/or international service, and enter this percentage in Column (c). Interstate revenues include all revenues received for calls that do not originate and terminate in the same state. For example, if a cellular carrier collects a fixed amount of revenue per minute of traffic, and 10% of minutes are interstate, then interstate revenues would include 10% of the per minute revenues.

Wherever possible, carriers should calculate the percentage of total revenues that are interstate by using information from their books of accounts and other internal data reporting systems. Carriers who cannot calculate a percentage by using information from their books of accounts and other internal data reporting systems, may elect to rely on a special study to estimate the percentages. Place a check mark in Column (d) if the percentage shown in column (c) was based on a special study.

3. Column (e)

Multiply the gross revenues reported in column (b) by the interstate percentages reported in column (c), putting the results in column (e). The sum of the figures in column (e), lines (5) through (14), should be entered in line (15e).

C. Block 3: Calculation of Contribution

Use block 3 in the worksheet to calculate the TRS contribution for the period July 1993 through April 1994. Total interstate revenues from line (15e) should be

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copied to line (16). This amount must be multiplied by the Contribution Rate shown in line (17), with the result entered in line (18). The contribution rate is 0.00047 for the 1993 filing year.

If the result of the calculation is less than \$100, then the total contribution for the period July 1993 through March 1994 is \$100. If the total contribution is less than \$1,200, then the carrier should remit the total contribution with the worksheet. If the total liability is equal to or greater than \$1,200, then the carrier may elect to make 7 equal monthly payments. The monthly contribution should be calculated as the amount in line (18) divided by 7.0, rounded to the nearest whole dollar. Enter the amount of the September 26, 1993 fund contribution in line (19). If the carrier elects to make monthly contributions, the six additional monthly contributions must be received by the 26th of succeeding months, October 1993 through March 1994.

Section II - B above provides directions for mailing the completed TRS Fund Worksheet and checks for amounts due to the FCC Fund Administrator. Carriers who check the box in line (19) will receive monthly payment reminders. These reminders will be mailed to the address shown in line (3). Failure to receive a reminder notice will not justify late payment.

The seven payment schedule specified above is adopted for transition purposes. On April 26, 1994, carriers will file a worksheet using data for calendar 1993. Carriers whose contributions are \$1,200 or greater will be allowed to make 12 equal payments to fund TRS for May 1994 through April 1995.

D. Block 4: Certification.

An officer of the fund contributor must examine the data provided in the TRS Fund Worksheet and certify that the information provided therein is accurate. In addition, the fund contributor should provide the name of a contact person who can provide clarifications, if necessary, and who could serve as the first point of contact in the event that either the FCC or the FCC Fund Administrator should choose to audit information provided by the company.

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Annual TRS Fund Worksheet

Subject to OMB Approval

Expires

(Please read instructions before completing)

Estimated Average Burden Hours Per Response: 2 hours

Block 1: Carrier Identification

1a Legal Name of Carrier	
1b Holding Company	
2 Principal Name for Carrier Activities	
3 Complete Mailing Address of Carrier Corporate Headquarters	
4 Telephone # for Customer Inquiries	() -

Block 2: Carrier revenue for calendar year 1992

(a)	Gross Revenues (b)	% interstate (c)	Special study (d)	Interstate Revenues (e) = (b) x (c)
Local Services				
5 Local exchange service	\$	%		\$
6 Local private line service	\$	%		\$
7 Mobile radio, cellular, and paging	\$	%		\$
8 Alternative access, PCS & other	\$	%		\$
Long Distance				
9 Interstate access	\$	100 %		\$
10 Intrastate access	\$	0 %		\$ 0
11 Operator service	\$	%		\$
12 Non-operator switched toll service	\$	%		\$
13 Long distance private line service	\$	%		\$
14 All other long distance	\$	%		\$
15 Total lines 5 through 14	\$			\$

Block 3: Calculation of Contribution

16 Interstate Revenues from Line 15e	\$
17 Contribution Rate:	x 0.00047
18 Total CONTRIBUTION for July 1993 through March 1994: line 16 x line 17 [if line 16 is greater than \$0 then the minimum contribution is \$100]	\$
19 Contribution to be paid this month: [Enter the amount from line 18 if it is less than \$1200. Otherwise, the contributor may divide line 18 by 7.0 to calculate equal monthly contributions.]	\$
Check here for monthly billing reminders -----> <input type="checkbox"/>	

Block 4: CERTIFICATION

I certify that I am an officer of the carrier named above, that I have examined the foregoing report and that to the best of my knowledge, information and belief, all statements of fact contained in this worksheet are true and that said worksheet is an accurate statement of the affairs of the above named carrier for the period January 1, 1992 through December 31, 1992.

20 Printed Name of Officer	
21 Position with carrier	
22 Signature	
23 Date	
24 Contact Person	
25 Telephone Number of Contact Person	() -

Mail checks to: NECA TRS P.O. Box 360090 Pittsburgh, PA 15251-6090 For additional information call NECA 202-884-8000
Mail worksheet and photocopy of checks to: NECA - FCC TRS Fund Administration 100 South Jefferson Rd. Whippany, NJ 07981

Persons making willful false statements in the worksheet can be punished by fine or imprisonment under the Communications Act, 47 U.S.C. 220 (e).

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July 15, 1993

SEPARATE STATEMENT

OF

COMMISSIONER ANDREW C. BARRETT

Re: Telecommunications Relay Services, and the Americans with Disabilities Act of 1990 [CC Docket No. 90-571]

In this Third Report and Order, the Commission adopts a shared-funding mechanism to recover interstate telecommunications relay services (TRS) costs. My vote to adopt this item should not be misconstrued as indicating general support for shared-funding mechanisms. Rather, I believe their use should, in general, be limited to services with clearly identified social benefits, and to instances where other funding mechanisms would not adequately serve the public interest. Use of a shared-funding mechanism to recover TRS costs meets these tests.

My second concern is that the TRS fund be administered in as efficient, reliable and accountable a manner as possible. The National Exchange Carrier Association (NECA) will function as administrator of the TRS fund for an interim two year period. I support the Order's provisions that there be a full assessment of NECA's performance as interim administrator, and that there be full opportunity for other entities to be considered as permanent TRS fund administrator.